

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

PAUL POGUE and )  
PAUL POGUE, in his capacity as owner of )  
SURVEYORS' PARK, )  
                        )  
Plaintiffs,                 )  
                        ) CIVIL ACTION NUMBER  
v.                             )  
                        ) 2:-06-cv-148-MHT  
TONY CHANDLER, et al., )  
                        )  
Defendants.                 )

MOTION TO DROP FICTITIOUS PARTIES

Defendants Tony Chandler and Danny Clark through their counsel, pursuant to Rule 21 of the Federal Rules of Civil Procedure,<sup>1</sup> hereby respectfully move this Honorable Court to drop “A, B, & C,” (Complaint at 1) as parties-defendant in the above-styled cause. As grounds therefor, it is stated that there is no provision in the federal statutes or the Federal Rules of Civil Procedure for the use of fictitious parties. *See Lubin v. Sybedon Corporation*, 688 F.Supp. 1425 (S.D. Cal. 1988); *Weeks v. Benton*, 649 F.Supp. 1297 (S.D. Ala. 1986); *see also New v. Sports & Recreation, Inc.*, 114 F.3d 1092, 1094 n.1 (11<sup>th</sup> Cir. 1997).

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<sup>1</sup> “Parties may be dropped... under order of the court on motion of any party or of its own initiative at any state of the action and on such terms as are just...” F.R.Civ.P. R. 21.

Respectfully submitted,

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ATTORNEY GENERAL  
BY:

s/Winfield J. Sinclair

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s/Charles T. Conway  
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Attorneys for defendants  
Chandler and Clark

CERTIFICATE OF SERVICE

This is to certify that on the 4<sup>th</sup> day of April, 2006, a copy of the foregoing has been electronically filed with the Clerk of the Court using the CM/ECF system, and that a copy of the same has been sent by First Class Mail to the plaintiff:

Paul Pogue, pro se  
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and to the attorney for Sandy G. Robinson,

Hon. Christopher Weller  
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